

REMARKS/ARGUMENTS

Favorable reconsideration of this application is respectfully requested.

Claims 1-12 are pending in this application.

The outstanding Office Action presents a rejection of Claims 1-12 as being based upon a defective reissue oath/declaration under 35 U.S.C. §251 in terms of the declaration failing to identify at least one error that is relied upon to support this Reissue application.

In order to overcome this rejection, the outstanding Action suggests filing a declaration specifying that:

Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the Applicant.

In accordance with this suggestion, Applicants are submitting a Supplemental Declaration with this response that incorporates the above-noted suggested language and that identifies at least one error that is relied upon to support this Reissue application. Accordingly, it is respectfully submitted that the rejection of Claims 1-12 as being based upon a defective reissue oath/declaration under 35 U.S.C. §251 in terms of the declaration failing to identify at least one error that is relied upon to support this Reissue application has been overcome and that this rejection should be withdrawn.

It is noted that MPEP §1412.03 II is specific that a change of scope to a dependent claim of the patent does not constitute a "broadening" under the statute as follows:

SCOPE OF DEPENDENT CLAIM ENLARGED-NOT BROADENING

As pointed out above, a claim will be considered a broadened reissue claim when it is greater in scope than **each and every** claim of the patent to be reissued. A corollary of this is that a claim which has been *broadened in a reissue as compared to its scope in the patent* is not a broadened reissue claim if it is narrower than, or equal in scope to, any other claim which appears in the patent. A common example of this is where dependent claim 2 is broadened via the reissue (other than the addition of a process step to convert an intermediate to a final product as discussed in the preceding subsection), but independent claim 1 on which it is based is not broadened. Since a dependent claim is construed to contain all the limitations of the

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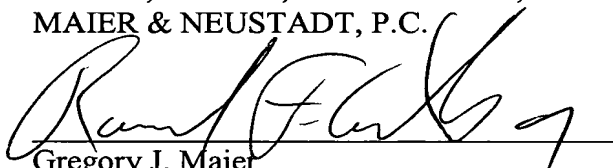
claim upon which it depends, Claim 2 must be at least as narrow as claim 1 and is thus not a broadened reissue claim.

As this reissue application is, thus, not considered to be a "broadening" Reissue application under MPEP §1412.03 II, the filing of an Assignee Declaration is permitted. A new 37 CFR §3.73(b) submission and a copy of the Assignment are included to establish the right of the new assignee to take this action.

As it is believed that no other issues remain outstanding in this application, it is believed that this application is in condition for formal allowance and an early and favorable action to that effect is, therefore, respectfully requested.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Gregory J. Maier', is written over a horizontal line.

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